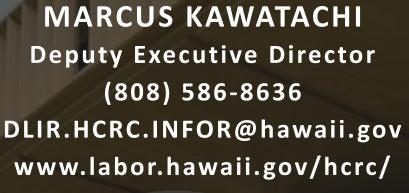


# Participation Guidelines

 During this virtual training, participants' microphones will be automatically muted and cameras turned off.

 We welcome your questions!
 Please submit your questions using the chat box.





## HAWAI'I CIVIL RIGHTS COMMISSION

The mission of the Hawai'i Civil Rights Commission is to eliminate discrimination by protecting civil rights and promoting diversity through enforcement of antidiscrimination laws and education.

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# Fair Housing and Equal Opportunity Mission



The mission of the Office of Fair Housing and Equal Opportunity (FHEO) is to eliminate housing discrimination, promote equal opportunity, and achieve diverse, inclusive communities by leading the nation in the enforcement, administration, development and public understanding of federal fair housing and civil rights policies and laws.

### **FHEO Activities**

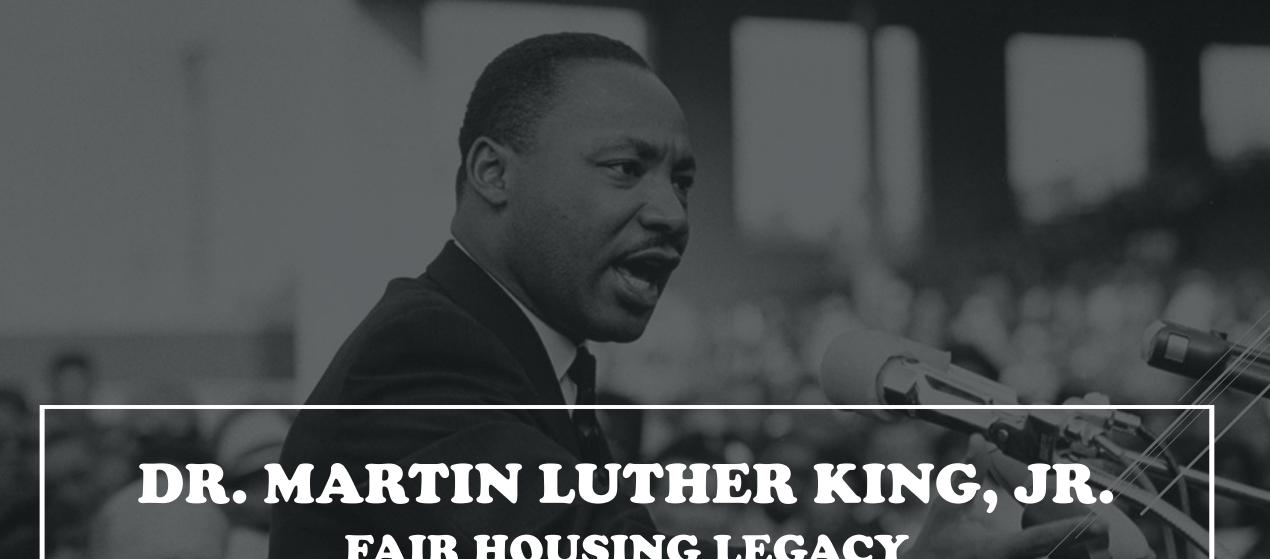
- Education and outreach
- Technical Assistance
- Investigating fair housing complaints
- Conducting Compliance Reviews
- Managing fair housing grants
- Ensuring civil rights compliance in HUD programs





Fair Housing: *More Than Just Words* ...





## FAIR HOUSING LEGACY 1929 - 1968

#### (1967) HAWAI'I FAIR HOUSING LAW

HRS §§ 368 and 515

PROHIBITS DISCRIMINATORY
PRACTICES BY AN OWNER,
ANY PERSON ENGAGING IN A
REAL PROPERTY OR
REAL ESTATE TRANSACTION,
OR A REAL ESTATE BROKER
OR SALESPERSON AGAINST
ANOTHER PERSON



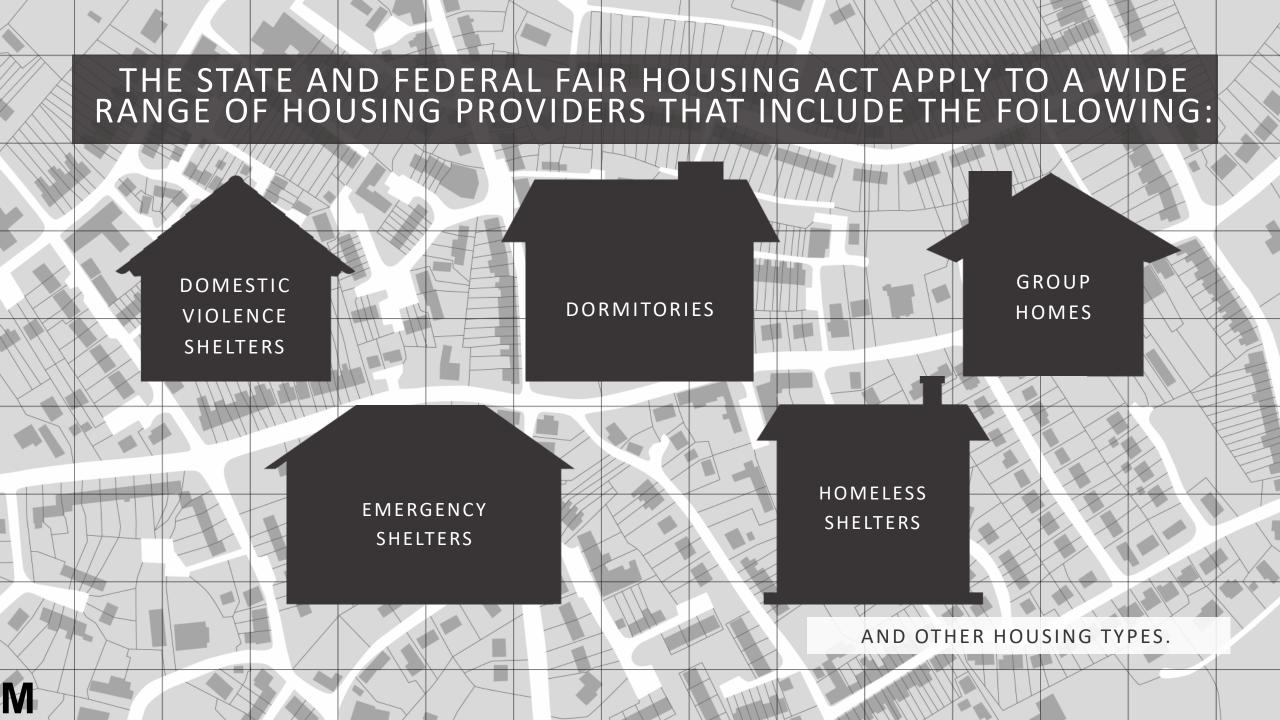
FEDERAL LAW (1968, 1974, 1988)

42 U.S.C. 3604 ET SEQ.

THE FAIR HOUSING ACT PROTECTS PEOPLE FROM DISCRIMINATION WHENTHEY ARE RENTING OR BUYING A HOME, GETTING A MORTGAGE, SEEKING HOUSING ASSISTANCE, OR ENGAGING IN OTHER HOUSING-RELATED ACTIVITIES.







FEDERAL LAW

42 U.S.C. 3604

SEX

RACE

COLOR

RELIGION

DISABILITY

FAMILIAL STATUS

NATIONAL ORIGIN





#### **HAWAI'I LAW**

HRS §§ 368 and 515 HAR §§ 12-46-301 to 318

AGE

**ANCESTRY** 

HIV STATUS

MARITAL STATUS

SEXUAL ORIENTATION

SEX specifically covers
GENDER IDENTITY and
GENDER EXPRESSION





#### RACE



Race refers to whether a person belongs to one or some mixture of two or more of these racial categories in the U.S. Census:

- 1. American Indian/Alaska Native
- 2. Asian
- 3. Black/African American
- 4. Multi-racial
- 5. Native Hawaiian/Other Pacific Islander
- 6. White

COLOR

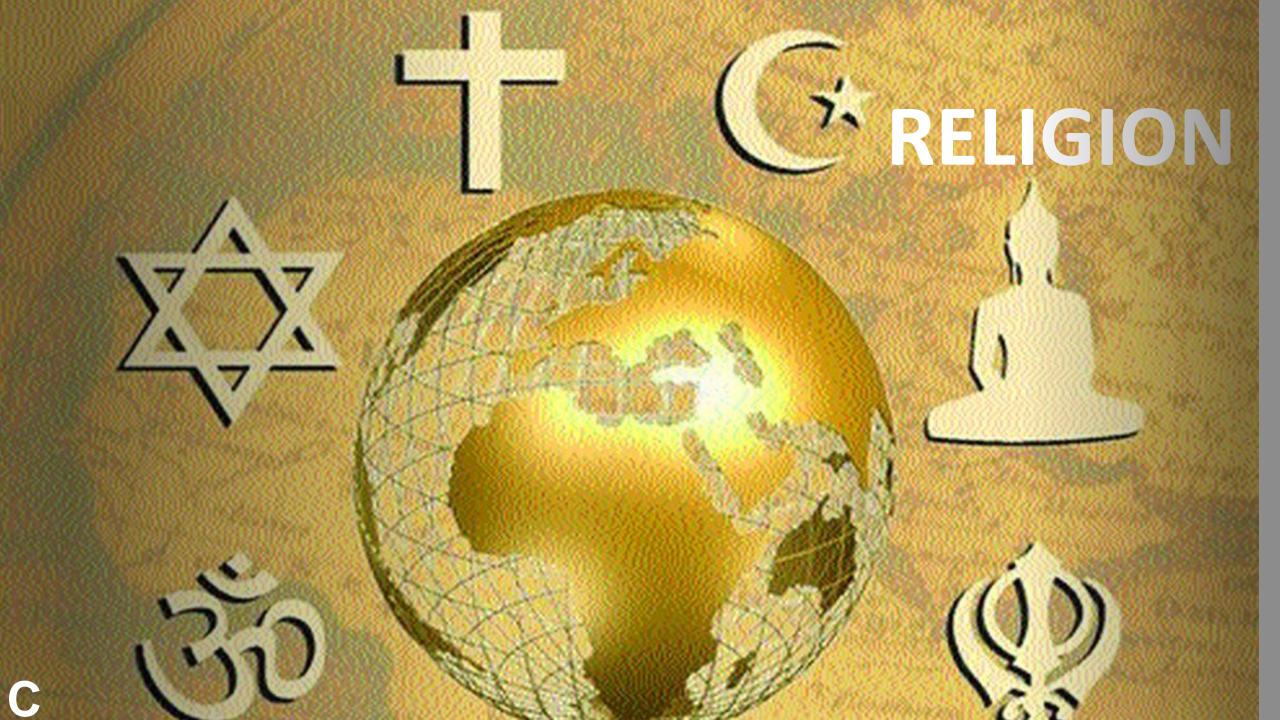


## NATIONAL ORIGIN

Under the Fair Housing Act, National Origin includes ancestry, birthplace, culture, ethnicity and language.

Note: State law uses the term Ancestry instead of National Origin.





### SEX

State of being male or female and the conditions associated therewith.



\*Interpreted to include gender identity and expression & sexual orientation

\*Bostock v. Clayton County







#### **DISABILITY**

Physical or Mental Impairment that substantially limits one or more major life activities

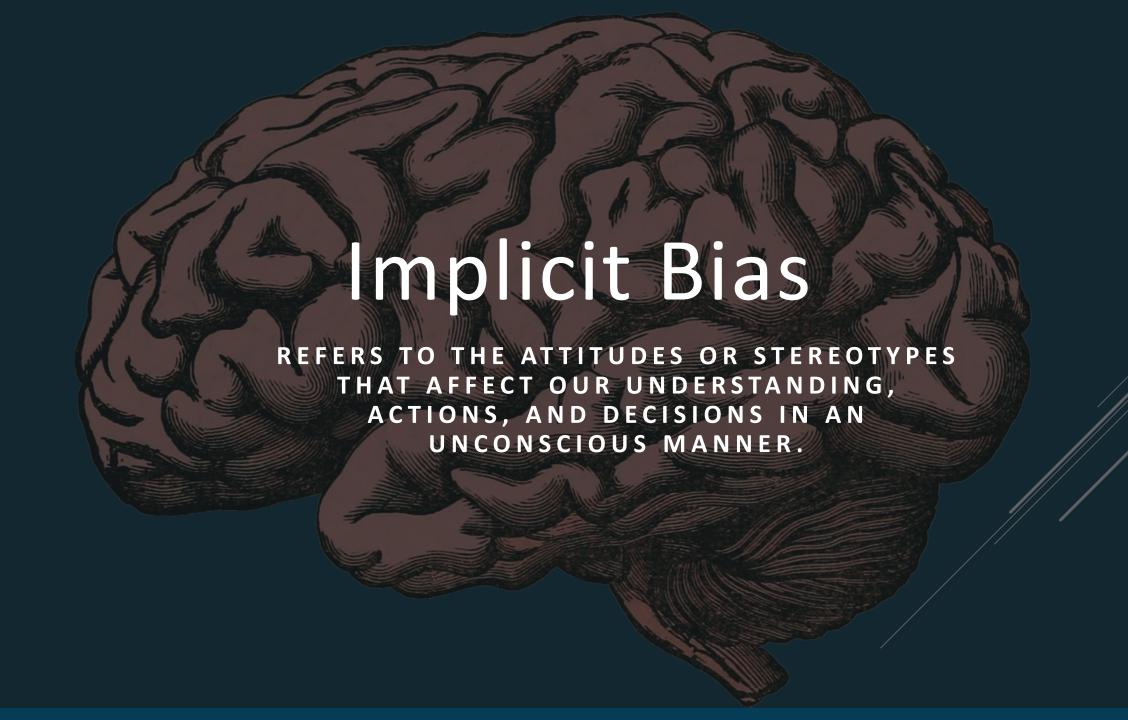
#### REGARDED

Regarded as having such an impairment.

#### RECORDED

Record of such an impairment.

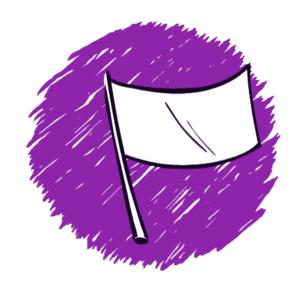
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## → How Do Fair Housing Laws Work?



Must be a member of a protected class.



Discrimination occurred because of that membership; and



The person or persons accused of the discrimination are not exempt from the federal or state fair housing laws.

## AND COMMISSION D N HAWAI'I CIVIL U.S.

#### **OBJECTIVE FACT FINDING**

Conducts a neutral investigation to collect relevant information from all sides.



#### CONCILIATION

Works impartially with both parties to reach settlement that may benefit everyone.



#### **DETERMINATION**

After investigation is complete, determination is issued to find either no cause or reasonable cause.



## H.U.D. Enforcement

Complaint Intake and Investigation









#### Conciliation

#### **Determinations**

(Violations, Administrative Law Judge)

#### Compliance

(reviews, policy guidance, technical assistance)

#### Inter-Agency Coordination

(Cooperative Agreements between Federal and State and Local Government)



Respondent will be served with the Charge and given an opportunity to respond

Investigation & Final Investigative Report Reasonable Cause or No Cause





Final Demand Letter

Hearing







Submit

PCQ

COMPLAINT PROCESS



#### Mediation

- Offered in-house by HCRC
- A neutral mediator assists parties in reaching an amicable resolution of the complaint
- A voluntary and confidential process

 May resolve the complaint more quickly and without going through a full investigation

High rate of successful resolution



### Statute of Limitations

The period of time in which a complaint must be filed when a person believes she or he has been injured by a discriminatory act.



180 days



1 year



HUD







18 months (for referrals & no limits in some situations)



2 years



## SECTION BREAK



#### Who Can File a Housing Discrimination Complaint?

 Anyone who has a good faith belief that he or she has been injured by another's discriminatory actions in housing

 Applicants, residents, tenants; guests, fair housing organizations, testers, real estate agents, employees, and others... Why Would Anyone File a Complaint?

A member of a "protected class";

Treated differently BECAUSE OF their protected class; and

The person, persons, or organization accused of treating them differently are covered by the Fair Housing laws

# Who Can Be Sued? Who Can Be Named in a Complaint?

Anyone involved who is alleged to have been involved in a discriminatory housing act:

• Some examples - clerical staff, maintenance staff, landscapers, vendors, neighbors, tenants, landlords, owners, managers, real estate agents, brokers, newspapers, insurance companies, mortgage companies, banks, lenders, architects, developers, homeowners associations, government agencies, police departments, etc.



# Refusing to Sell or Rent... because of one's "protected class" status

- Refusing to show available housing
- Telling qualified applicant units were not available when they were available
- Making home seekers feel "not particularly welcome" because of their protected class
- Making discriminatory statements
- Delaying tactics such as manipulating waiting lists or delaying action on applications
- Telling one person price was firm, but others price was negotiable

## **Examples of Denying Availability**

 Telling a qualified applicant units were not available when they were available

•Only showing "model" apartments when actual apartments were available



# Examples of Different Terms and Conditions

- Demanding higher rents, deposits, or applying different terms
- Prohibiting families with children from renting units on upper floors or limiting families with children to lower floors
- Requiring disabled persons to have liability insurance
- Prohibiting children from using the pool or amenities

## Housing Discrimination Can Take Many Forms Some Examples ...



- Denial of housing because of a potential resident's religion, sexual orientation, marital status, etc.
- Unequal treatment in a potential resident's application process because of his or her race, sex, age, etc.
- Resident manager enforces house rules unequally because a household has minor children or a person with a disability
- Imposing additional program requirements on participants based upon their protected class such as "parenting classes" or "support groups."

# More Housing Discrimination Examples

- Office staff hangs up on a resident or refuses to return a phone call because of the person's limited English proficiency
- Board of directors of a homeowners' association unequally subjects an owner to fines or fees because he or she has complained about alleged housing discrimination
- Security staff subjects a resident to sexual advances, racial slurs, or other harassing conduct, and corrective action not taken





# **DISABILITY**

Physical or Mental Impairment that substantially limits one or more major life activities

#### REGARDED

Regarded as having such an impairment.

#### RECORDED

Record of such an impairment.

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## Reasonable Accommodation

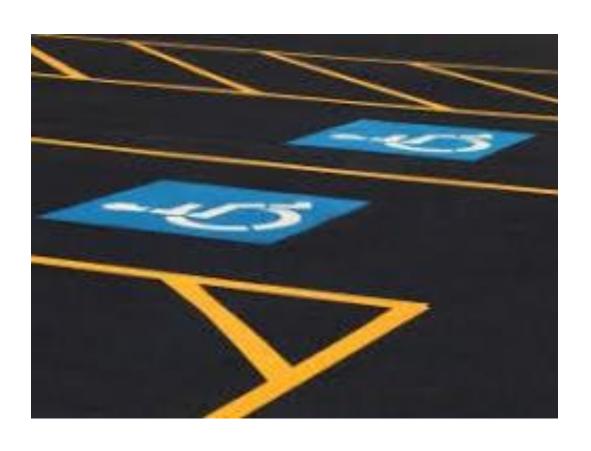
Change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a disabled person to have an equal opportunity to use and enjoy a housing accommodation/dwelling, including public and common areas.







## Reasonable Accommodation Examples



- Reserving a parking place for a mobility-impaired tenant closer to his unit than other tenants are entitled to have
- Allowing a resident to participate in meetings via telephone conference when unable to appear in person due to a disability
- Waiving a rule against non-residents using the laundry room to allow the friend of a disabled resident to do that resident's laundry

#### Assistance Animals | not pets

Animals that do work, perform tasks, assist, and/or provide therapeutic emotional support for individuals with disabilities.

## support animal

Provides support that alleviates one or more symptoms of a person's disability





"means any <u>dog</u> that is individually trained to do work or <u>perform a task</u> for the benefit of an individual."





# **Advertising**

It is unlawful to publish or cause to be published an advertisement that expresses a preference, limitation, or discrimination on the basis of a protected category.





# Advertising

#### "Publishing"

 Newspaper, hand-written ads, eviction notice, newsletters, bulletin board notice, verbal statements, application forms, etc.

#### **Examples**

- "Not suitable for children"
- "Female preferred"
- "Japanese only"
- "We don't rent to people with assistance animals"
- "Perfect for single professional" or "empty nester"

# Retaliation



- It is illegal to subject a person to adverse treatment because the person:
  - Exercised any rights granted by fair housing laws,
  - Opposed a discriminatory practice, <u>or</u>
  - Filed a fair housing complaint or assisted in filing a complaint.

<sup>\*</sup> This is a stand-alone legal claim and the second highest basis for filing housing discrimination claims.

# **Retaliation Examples**

- Evicting a tenant for reporting discrimination to the landlord or filing a discrimination complaint with HUD or HCRC
- Retaliatory conduct against a real estate agent who refuses an owner's decision to discriminate
- Vandalism or violence directed against an individual for participating in a HUD or HCRC investigation
- Raising a tenant's rent or program fee for refusing an owner's sexual advances



# **Record Keeping Duties**

#### **In General**

• Failure to preserve relevant records pertaining to HCRC investigation

Hawaii Administrative Rule (HAR) 12-46-304 [c] and 304 [d])

 Effect: Adverse inference of discrimination can be made if records are not retained





# Under federal and state Fair Housing laws, which are NOT protected classes?

- A. Race
- B. Religion
- C. Source of Income
- D. Handicap/Disability
- E. Familial Status
- F. Color
- **G.** Sexual Orientation
- H. National Origin/Ancestry
- I. Sex/Gender

If a housing provider unintentionally engages in discrimination, he/she/they cannot be held liable under federal and state Fair Housing laws.

Under Fair Housing Laws, indicating a preference based on sex/gender in advertising an available apartment or room is legal?



A Housing provider may turn down a Pacific Islander applicant because of the applicant's lack of a steady job and income.



A person with a disability may request an assistance animal as a reasonable accommodation for the equal use and enjoyment of their home.

# QUESTIONS

# ANSWERS

#### ANY CLARIFICATIONS OR QUESTIONS?

Providing legal information and not legal advice.

Legal information explains the law and the legal system. Generally, Legal Advice applies the law, including statute and case law, and legal principles to a particular situation.

LEGAL AID SOCIET	(808) 536-4302	LEGAL AID SOCIETY OF HAWAI'I
6 HAWAI'I CIVIL RIGHTS	(808) 586-8636	HAWAI'I CIVIL RIGHTS COMMISSION
U.S. DEPARTMENT OF HOUSING AND URE	(808) 457-4677	T OF HOUSING AND URBAN DEVELOP.
(HSBA) LAWYER REFERRAL & INFORMA	(808) 537-9140	R REFERRAL & INFORMATION SERVICE

If you would like legal advice, please speak to a private attorney.

# Evaluation

Thank you for your participation and feedback!

